IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10678 OF 2004

Shri Pentu Vithalrao Maisanwad & ors. Petitioners

vs.

State of Maharashtra & ors. Respondents

Mr.R.K.Mendadkar with Mr.Vishnu Madne for the petitioners.

Mr.R.D.Rane,A.G.P. for respondents 1 and 3.

Ms.Deepa Chavan i/b.M/s.Little & Co. for respondent no.2.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 17th March 2005

ORAL ORDER (R.M. Lodha,J.)

Heard the learned counsel for the parties. The issue being short, we issue rule and by consent of the learned counsel, we dispose of the writ petition finally at this stage.

2. The petitioners, nine in number, have filed this joint writ petition seeking direction to the respondent no.2 to declare their results for the second and final year of D.Ed. course examination and release their marksheets.

3. The details of the caste claimed by the petitioners

and the college allotted to them are given below :

Name	Caste claimed	College allotted
1. Pentu Vithalrao Maisanwad	Mannervarlu	Yashwant Adyapik Vidyalaya Kadoli,Taluka Phanala, Kolhapur.
2.Digambar Tukaram Papulwad	Mannervarlu	V.D.Adyapak Vidyalaya, Mahuli,Tal.Khanapur Sangli.
3.Kailas Ramrao Bondale	Mannervarlu	Adyapan Padvita Adyapika Prashikshan Sanstha Shivajinagar,Yawatmal.
4.Kum.Smita Vithalrao Koneri	Mannervarlu	Saraswati Adyapika Vidyalaya,Mandwa Road, Kinwat,Nanded.
5.Chandrakant Vishwanath Kolpuse	Mannervarlu	Saraswati Adyapika Vidyalaya,Mandwa Road, Kinwat, Nanded.
6.Ravindra Gangaram Jongilwar	Mannervarlu	Saraswati Adyapika Vidyalaya,Mandwa Road, Kinwat, Nanded.
7.Suresh Narayan Gurjalwad	Mannervarlu	Govt.Adyapak Vidyalaya, Hingoli,Parbhani.
8.Dattatray Piraji Bhandare	Dhangad	Charwak Jr.College of Eduction Ahmadpur Latur.
9.Tukaram Harishchandra Chavan Naikda		Dalithitra V.T.Nagpura Adhyapak Vidyalaya, Chandrapur."

4. That the aforesaid petitioners were granted admission under the category of Scheduled Tribe during the academic year 2001-2002 for the D.Ed. course is not

in dispute. It is also not in dispute that at the time of their admission to the D.Ed. course in the academic year 2001-2002, the petitioners had obtained caste certificates from the Competent Authorities of jurisdiction certifying that they belong to Scheduled Tribe. It is untraversed fact that pursuant to their admission in the D.Ed. course in the academic year 2001-2002, the petitioners prosecuted their studies; they appeared in the first year of D.Ed. course conducted by the respondent no.2 and all the petitioners successfully cleared the first year of D.Ed. course. The petitioners thereafter prosecuted second and final year of D.Ed. course. It is also undisputed that they were issued hall tickets and they appeared for the examination conducted by the respondent no.2 in the month of October 2003 in the second and final year of D.Ed. course. However, their results are not being declared now on the ground that the petitioners have not got their caste claim verified from the concerned Caste Scrutiny Committee. In this connection, the contesting respondents seek to place reliance on the Government resolution dated 1st November 2000.

5. We perused the Government resolution dated 1st November 2000. It provides for procedure for admission to the D.Ed. course for the academic year 2001-2002. Interalia it provides that the candidate shall by

15.11.2000 submit the caste certificate issued by the Competent Authority in accordance with the prescribed proforma. The concerned Educational Institution as per this Government resolution was required to forward the caste certificate so produced by the candidate to the Caste Scrutiny Committee for verification by 30th November 2000. Nothing has been shown to us by either of the advocates for the respondents that the petitioners failed to submit the caste certificate as per the prescribed proforma by 15th November 2000. The default, inaction or negligence on the part of the concerned Educational Institution cannot work prejudicially to the interest of the petitioners for none of their fault. Besides that the fact of the matter is that after the petitioners were given admission in the academic year 2001-2002, they prosecuted their D.Ed. course uninterruptedly. They were permitted to appear in the first year D.Ed. course examination and their results were also declared. Thereafter the petitioners prosecuted their studies in second and final D.Ed. course and they were permitted to appear in the examination held in the month of October 2003. In the backdrop of these facts, we are of the considered view that it is too late in the day for the respondent no.2 to decline the declaration of the results of the second and final examination in D.Ed. course held in the month of October 2003 on the ground

that the petitioners failed to have their tribe claim verified from the Scrutiny Committee.

6. In the State of Maharashtra v. Milind & ors., AIR 2001 S.C.393, the Supreme Court in paragraph 37 of the report observed thus:

> "37. Respondent No.1 joined the medical course for the year 1985-86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practising as doctor. In this view and at this length of time it is for nobody's benefit to annul his Admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to respondent No.1, it may lead depriving the service of a doctor to the society on whom public money has already been spent. In these circumstances, this judgment shall not affect the degree obtained by him and his practising as a doctor. But we make it clear that he cannot claim to belong to the Scheduled Tribe covered by the Scheduled Tribes Order. In other words, he cannot take advantage of the Scheduled Tribes Order any further or for any other constitutional purpose. Having regard to the passage of time, in the given circumstances, including interim orders passed by this Court in SLP (C) No.16372/85 and other related affairs, we make it clear that the admissions and appointments that have become final, shall remain unaffected by this judgment."

7. In R.Vishwanatha Pillai v. State of Kerala & ors., (2004) 2 S.C.C. 105, the Supreme Court referred to it earlier judgement in the case of Milind (Supra) and in paragraph 28 of the report held thus:

> "28. In this case we find that the appellant

> had joined Regional Engineering College in the year 1992. He completed the course of his studies in the year 1996 under the interim orders of (sic the High) Court which were subject to the final orders to be passed in the writ petition. No purpose would be served in withholding the declaration of the result on the basis of the examination already taken by him or depriving him of the degree in case he passes the examination. In terms of the orders passed by the Constitution Bench of this Court in State of Maharashtra v. Milind we direct that his result be declared and he be allowed to take his degree with the condition that he will not be treated as a Scheduled Caste candidate in future either in obtaining service or for any other benefits flowing from the caste certificate obtained by him. His caste certificate has been ordered to be cancelled. Henceforth, he will be treated as a person belonging to the general category for all purposes."

8. In the facts and circumstances of the case already noticed by us hereinabove, no purpose would be served in withholding the declaration of the result on the basis of the D.Ed. final year examination already taken by the petitioners or depriving them of the marksheets and the diploma if they have passed the examination. Needless to say that the petitioners shall not be entitled to any benefit of scheduled Tribe until verified by the concerned Scrutiny Committee.

9. We, accordingly, dispose of the rule by the following order:

(i) The Maharashtra State Examination Council (respondent no.2) is directed to declare

the result of the petitioners for the second and final year D.Ed. examination held in October 2003 within two weeks from today and release their marksheets.

(ii) The petitioners, however, shall not be entitled to any benefit of the Scheduled Tribe covered by the Scheduled Tribes Order until their caste claim is duly verified by the competent Caste Verification Committee.

No costs.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)